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DISCLOSURE ADVISORY

For the person named above, whom the People may call as a witness, please be advised as follows.

1. The Civilian Complaint Review Board (CCRB) has deemed substantiated allegations that on or about October 10, 2017, Christopher Arena committed the violations of Force – Physical Force, Abuse – Refusal to Obtain Medical Treatment, and Abuse – Other. These findings arose out of a pursuit of a vehicle from the FDR Highway over the George Washington Bridge into New Jersey.

According to the CCRB complainant, at about 10:45 at night, he was driving on the northbound FDR Drive in Manhattan when he noticed an unmarked black sedan two cars behind him. He claimed to have been driving within the speed limit and maintained that his headlights and taillights were functional and his headlights were on. As he entered the lower level of the George Washington Bridge (GWB), the car turned on turret lights, but he believed it was attempting to stop the vehicle directly behind him.

Two officers, Officer Arena and another officer [Officer #1], were interviewed by the CCRB and another two had retired from the NYPD before they could be interviewed. According to the interviewed officers, they saw the complainant driving northbound on the FDR without his headlights on and when the officers activated turret lights the complainant took off at a high speed northbound on the FDR and ultimately crossed the GWB. The officers told the CCRB that as the vehicle approached the lower level of the GWB, they observed a black plastic bag thrown out of the driver's window of the car, and under the circumstances, they believed the bag contained a gun or drugs. They stated that the complainant drove aggressively on the bridge and took evasive maneuvers, causing other drivers to brake to avoid a collision. The complainant denied throwing anything and claimed to have followed all traffic laws.

By all accounts, the officers followed the complainant's car to an address in Englewood NJ. According to the officers, the complainant was driving over 75 mph and driving erratically, both of which the complainant denied. There is no dispute that the officers did not radio in to NYPD dispatch to provide a notification of the chase. Video footage at the end of the pursuit in Englewood show the complainant exiting his vehicle and three officers exit their car and chasing him on foot.

According to the complainant, he realized at the end of the chase that it was police officers not prospective robbers who were following him and he exited his car and walked to the sidewalk near a wooded area so that he could lie down for the officers to apprehend him, as opposed to lying down in the street. He claims that he lay on the

sidewalk and was then kicked and punched about 100 times, including approximately 25 times in the head. He denied having resisted arrest. A neighbor told the CCRB that the complainant exited his car and ran 15 feet towards an empty lot, where officers took him down and cuffed him, and then lodged him in a police car. She said she did not see anyone kick or punch the complainant, and the police officers denied having done so.

According to the officers, the complainant ran from his car, fell, and sustained injuries in the fall onto a pile of broken glass, sticks and rocks and during the ensuing struggle between him and the officers on the ground at the entry to a wooded area.

The complainant was arrested for reckless endangerment in the first degree, criminal possession of a weapon in the third degree (for a weapon recovered from the vehicle), tampering with physical evidence (in connection with the bag allegedly thrown from the car window during the chase), resisting arrest, obstructing governmental administration in the second degree, reckless driving, aggravated unlaced operator of a moving vehicle in the third degree, unlawful possession of marijuana and driving with no headlights. These charges were ultimately dismissed. (Separate from this case, the CCRB reported that the complainant had two prior felony convictions (kidnapping in the second degree and promoting prison contraband in the first degree) and a misdemeanor conviction.)

The complainant was brought back to the 26th Precinct Station House and did not receive medical treatment until almost four hours later. The complainant and Officer #1 received medical attention at a hospital for injuries sustained during this incident. The complainant was diagnosed with two fractures to his skull and a laceration to his ear (which had to be stitched back). The complainant did not tell hospital officials that he had been beaten, but expressed concern about heroin withdrawal. The officer was diagnosed with a fractured right hand and went out line of duty for two weeks.

The CCRB was not able to determine whether the vehicle being pursued was traveling without its headlights and/or taillights lit, as the officer maintained.) On the subject of the pursuit, the CCRB stated that:

Given that no officer notified dispatch or their supervisor that they were initiating a vehicle pursuit or continuing to pursue the vehicle across the state line into New Jersey, the officers were already in violation of departmental procedure for vehicle pursuits. Beyond this, by the officers' own accounts of the vehicle pursuit the substantial danger posed to the public rose to the level that the pursuit should have been terminated. At least four of the factors to terminate a vehicle pursuit were met: 1) the nature of the initial suspected offense was that [the complainant] was driving without his headlights (a VTL violation), 2) the time of day was late evening making visibility limited and driving hazardous, 3) the location and population density were heavily trafficked residential streets and as the vehicle pursuit continued [the complainant's] vehicle narrowly avoided over a dozen collisions and 4)

the officers were unfamiliar with the area and had never pursued a vehicle into New Jersey before. Given that officers ran the vehicles New Jersey license plates which returned positive for [a specific address] in Englewood, New Jersey . . . , an officer could have contacted Englewood PD to alert them of the dangerous vehicle pursuit heading their way and request units to assist in apprehending the vehicle. The investigation found the officers' suspicion of a gun or narcotics in the black bag incredible. The discarding of a black bag from a driver side window is open to innocuous interpretation, and most tellingly the officers declined to alert any nearby units, or their supervisor, of the location of the alleged discarded contraband so that it could be immediately canvassed for and retrieved.

The investigation determined that . . . PO Arena [and the other officers] were not justified in pursuing [the complainant's] vehicle.

The CCRB rejected the officers' account of how the complainant was injured, stating:

The investigation found the officers' account that [the complainant] fell onto a pile of broken glass, sticks and rocks, and that the officers had an extended struggle on the ground of this wooded area, incredible. First, [the complainant's] white shirt with bloodstains, which [Officer #1] acknowledged was the same shirt he was arrested in, has no dirt or other marks consistent with a facedown, minute-long struggle in a wooded area. Second, no officer made any effort to document the debris in the wooded area beyond mentioning it in TRIs and memo book entries. Third, the officer's descriptions of [the complainant]'s resistance include contradictory physical actions, such as using his arms and legs to push off the ground as he flailed his arms and legs to attempt to strike the nearby officers. And fourth, the officers corroborated that [the complainant] claimed to have AIDS, which [the complainant] said finally caused the officers to stop using force against him. Additionally, even if [the complainant] resisted officers' attempts to handcuff him by pulling his hands under his torso, this action would have been subject to innocuous interpretation, and did not rise to reasonable suspicion that [the complainant] was armed.

The investigation credits [the complainant's] account of the force, and based on the excessive injuries documented in the medical records and [the complainant]'s testimony, determined that [Officer #1], PO Arena and [Officer #2] struck and kicked [the complainant] multiple times, including in his head. [The complainant's] skull fractures to the left side of his skull are more consistent with strikes to the head than falling forward onto the ground. [Officer #1's] wrist injury is consistent with the use of a handstrike with a closed fist. The circumstances around [Officer #1's] wrist injury, namely that he could not account what caused his injury . . . and did not notice that his wrist was injured until

he returned to the stationhouse, contribute to the crediting of [the complainant's] account of the force. As the officers denied striking and kicking [the complainant], they provided no justification for doing so.

Based on the nearly four-hour delay in seeking medical attention for the complainant, the CCRB also deemed substantiated the allegation of Abuse – Refusal to Obtain Medical Treatment.

The matter was referred to the New York Police Department (NYPD) which issued Charges and Specifications alleging that Christopher Arena, while assigned to Patrol Borough Manhattan North Special Units, (A) on or about October 10, 2017, at approximately 2245, and on duty in the vicinity of [an address] in Englewood, New Jersey, wrongfully used force in that he used physical force, namely struck [a person] without police necessity, and (B) on or about October 10, 2017 while on duty in the vicinity of the 26th Precinct Stationhouse abused his authority in that he failed to secure medical treatment for [that person] from the place of arrest without sufficient legal authority. As of March 11, 2021, the disposition of this matter was still pending.

Various publicly available websites and databases contain disciplinary information for certain law enforcement officers. Two of these are online databases maintained by the New York City Police Department (<https://nypdonline.org/link/1026>) and the New York City Civilian Complaint Review Board (<https://www1.nyc.gov/site/ccrb/policy/MOS-records.page>). Information in such databases about this officer is not necessarily included in this advisory.

Any information herein regarding civil lawsuits against an officer is not necessarily a complete list of civil lawsuits in which that officer is a defendant.

Allegations of misconduct that have not been substantiated and are not pending (including, but not limited to, findings of unsubstantiated, unfounded, and exonerated), and allegations of technical infractions, are not subject to disclosure and are not included in this advisory.

The decision to include information in this advisory does not represent a conclusion by the People that it is required to be disclosed.

The People reserve the right to oppose or move to limit the use of any information included herein or disclosed in the future.

If you have any questions, please contact the Assistant District Attorney assigned to the case on which you are receiving this advisory.

Date: March 12, 2021